

## **REMARKS**

Claims 1-24 are pending. Claims 1-24 are rejected. No new subject matter has been added. Claims 1-24 remain pending. Reconsideration of the claims is requested in light of the following remarks.

### ***Claim Rejections - 35 USC § 102***

Claims 1-3, 9-11, and 15-17 are rejected under 35 USC 102(e) as being anticipated by Schuster et al. (US 6,360,271). The rejection is respectfully traversed.

Independent claims 1, 9 and 15 specify a server transmitting data received from a source at a regular rate and at first at a faster burst rate. By transmitting data first at a higher burst rate the de-jitter buffer 364 can be filled to a full level faster more quickly. This reduces the start-up delay at the de-jitter buffer before received media packets can be played out. After the de-jitter buffer is full, the normal transmission rate is used to keep the de-jitter buffer full. FIG. 5, page 6, lines 19-37.

Conversely, Schuster has nothing to do with reducing the amount of time required to fill up a de-jitter buffer. Schuster is only interested in synchronizing time signals for packets in order to better schedule delayed packet play-out. Col. 5 line 9-col. 6 line 8. There simply is no suggestion in Schuster of changing the rate that packets are transmitted to the de-jitter buffer. Schuster does discuss selecting different transmission paths according to an amount of delay and/or jitter in a network path. However, the packets are still transmitted at the same rate regardless of which path is selected. Col. 14 line 52- col. 15, line 14.

The first packets transmitted on a shorter delay path may arrive at the de-jitter buffer more quickly using the system in Schuster. However, the de-jitter buffer will not be filled significantly faster because the packets are not transmitted at a faster burst rate. Therefore, Schuster cannot provide the reduced de-jitter buffer start-up delay provided by the present invention.

For this reason, claims 1-6 and 9-20 are allowable under 35 USC 102(e) over Schuster.

### ***Claim Rejections - 35 USC § 103***

Claims 4, 7-8, 12, 18, and 21-24 are rejected under 35 USC 103(a) as being unpatentable over Schuster et al. in view of Ketcham. The rejection is respectfully traversed.

Claim 21 and amended claim 7 specify storing data in a de-jitter buffer and initiating play out of the stored data from the de-jitter buffer when the de-jitter buffer reaches a fill level and then changing the fill level while playing out the stored data.


No where does Schuster, Ketcham, or Vetro suggest the limitations specified in claims 7 and 21. Ketcham only discusses altering a jitter time estimation by measuring a packet arrival time to a jitter time. Col. 8, lines 49- col. 10, line 9. There is no suggestion of changing a de-jitter fill level after a first fill/play-out level is reached.

For this reason claims 7, 8, and 21-24 are allowable under 35 USC 103(a) over Schuster et al. in view of Ketcham and in further view of Vetro et al..

### CONCLUSION


For the foregoing reasons, reconsideration and allowance of claims 1-24 of the application as amended is solicited. The Examiner is encouraged to telephone the undersigned at (503) 222-3613 if it appears that an interview would be helpful in advancing the case.

Respectfully submitted,

  
\_\_\_\_\_  
Stephen S. Ford  
Reg. No. 35,139

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to:  
Commissioner for Patents, P.O. Box 1450,  
Alexandria, VA 22313-1450 on:

Date: 11/21/03

Signature:   
\_\_\_\_\_  
Jessica Schulz

MARGER JOHNSON & McCOLLOM, P.C.  
1030 SW Morrison Street  
Portland, OR 97205  
(503) 222-3613



Annotated Sheet Showing Changes Made

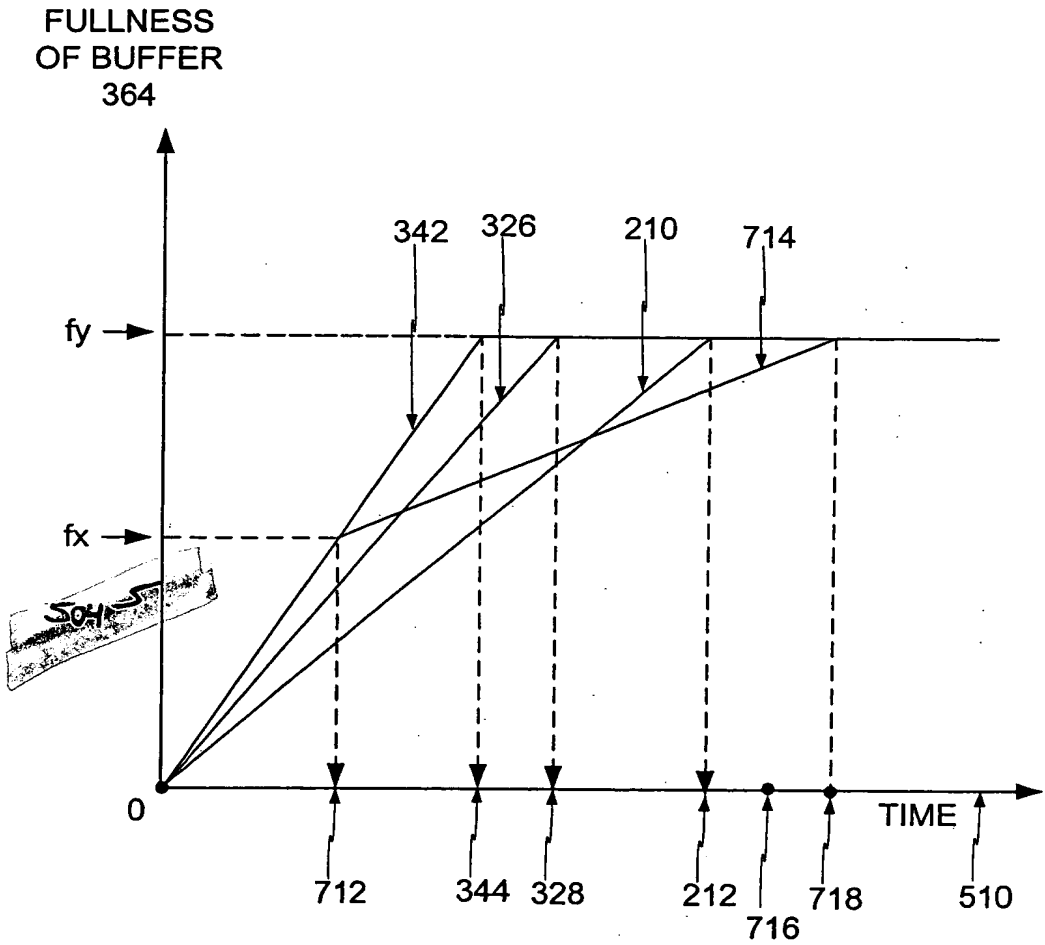


FIG. 5